



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
*Two Gateway Center*  
*Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR )  
AN ORDER AUTHORIZING SUNESYS, )  
INC., TO PROVIDE LOCAL EXCHANGE )  
AND INTER-EXCHANGE )  
TELECOMMUNICATIONS SERVICES )  
THROUGHOUT NEW JERSEY )

ORDER OF APPROVAL

DOCKET NO. TE00040261

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated April 6, 2000, Sunesys, Inc. (Petitioner or Sunesys) filed a petition with the Board of Public Utilities (Board) requesting authority to offer services as a competitive access provider. By letter dated October 25, 2000, Sunesys amended its petition to request authority to provide local exchange and interexchange services throughout the State of New Jersey. In addition, Sunesys responded to a Staff questionnaire by letter dated September 15, 2000 and to Staff interrogatories by letters dated October 23, 2000, October 25, 2000 and February 23, 2001. In its February 23, 2001 letter, Petitioner asked for confidential treatment of the financial information included as Attachment D to that letter. According to Petitioner's October 23, 2000 and February 23, 2001 letters, Sunesys had entered an agreement whereby all outstanding stock of Sunesys was transferred to Excelon Infrastructure Services (EIS). By this transaction, Sunesys became a wholly owned subsidiary of EIS. Both EIS and Excelon Energy are wholly owned subsidiaries of Peco Energy. Excelon Energy is a licensed energy marketer in New Jersey. Petitioner will continue to operate as Sunesys.

According to the petition, Sunesys was incorporated under the laws of the State of Pennsylvania on April 6, 1998. Petitioner's principal offices are located at 202 Titus Ave., Warrington, Pennsylvania 18976. Petition at 2.

Petitioner submitted copies of its Articles of Incorporation, Pennsylvania Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. Petition at 6, Exhibit A; February 23, 2001 letter at 2, Exhibits B and C. As noted above, according to its October 25, 2001 letter, Sunesys requests authority to provide local exchange and interexchange services. October 25, 2000 letter at 1. Petitioner advised that it currently provides competitive access services in Pennsylvania. The Petitioner stated that it has never had a complaint filed against it in any jurisdiction. *Ibid.* According to Sunesys, neither EIS, nor any of its subsidiaries or affiliates, is involved in any disciplinary proceeding with any regulatory or legal authority in any federal or state jurisdiction. February 23, 2001 letter at 3. Sunesys advised that it currently has no ongoing interconnection agreement negotiations, nor does it plan to resell services.

In its petition, Petitioner advised that it seeks authority to provide local exchange and interexchange telecommunications services chiefly to business customers throughout New Jersey. Petitioner will initially offer only dark fiber and dim fiber services. Petition at 3; Staff Questionnaire at 4; February 23, 2001 letter at 2.

Petitioner requested a waiver of N.J.S.A. 48:3-7-8 and N.J.A.C. 14:1-1.2, 14:1-5.15 and 14:10-1.16, which require that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requested permission in the interest of efficiency and to prevent undue burden, to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). October 25, 2000 letter at 2. Petitioner also requests permission to keep all books, records, documents and other writings incident to the conduct of its business in the State of New Jersey at Petitioner's corporate offices in Warrington, Pennsylvania. October 25, 2000 letter at 2. Petitioner also stated that, upon written notice from the Board, it will produce its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petition at 3. Petitioner also asserted that approval of this petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. Petition at 3.

With regard to its technical and managerial qualifications, Sunesys stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petition at 2. Petitioner submitted the professional biographies of its key personnel who, according to Sunesys, are well qualified to execute its business plans, having extensive managerial and technical experience in the telecommunications industry. Petition at 2, Exhibit B.

In addition to a 1998 balance sheet, Sunesys provided audited consolidated financial statements of EIS, its parent for the period of June 8, 1999 through December 31, 1999. February 23, 2001 letter at Exhibit D. Sunesys will rely on the financial resources of its parent.

By letter dated January 19, 2001, the Division of the Ratepayer Advocate advised that it is satisfied that Sunesys possesses the requisite technical, managerial and financial qualifications necessary to receive authorization from the Board and recommended approval of this petition.

## DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Sunesys' petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources, which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange and interexchange telecommunications services in New Jersey, subject to approval of its tariff and submission of its own pro forma financial statements. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided. With respect to Petitioner's request for waivers of Board rules, the Board FINDS that Petitioner has demonstrated good cause why the Board should grant relief from its requirements to maintain Petitioner's books and records under the USOA and within New Jersey. Therefore, subject to Petitioner's continuing responsibility to provide the Board with access to its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA. Regarding the Petitioner's request for proprietary treatment of its financial information as submitted with its February 23, 2001 letter, the Boards FINDS that the Petitioner has shown good cause that the protection from disclosure of this information has merit, and DIRECTS that this information be kept under seal.

DATED: 5/9/01

BOARD OF PUBLIC UTILITIES  
BY:

(signed)  
CAROL J. MURPHY  
ACTING PRESIDENT

(signed)  
FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)  
FRANCES L. SMITH  
BOARD SECRETARY

